



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/693,804

10/24/2003

Michael E. Deem

MS1-1793US

4134

22801 7590 06/14/2010

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

EXAMINER

JACKSON, JENISE E

ART UNIT

PAPER NUMBER

2439

NOTIFICATION DATE

DELIVERY MODE

06/14/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary	Application No. 10/693,804	Applicant(s) DEEM ET AL.	
	Examiner JENISE E. JACKSON	Art Unit 2439	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-41 and 50-53 is/are allowed.
- 6) ☒ Claim(s) 1-37, 42-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/25/10 has been entered.

Claim Rejections - 35 USC § 101

2. Claims 27-37, 42-49 are rejected under 35 U.S.C. 101 based on Supreme Court precedent and recent Federal Circuit decisions, a 35 U.S.C § 101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In re Bilski et al, 88 USPQ 2d 1385 CAFC (2008); Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the particular machine to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps are not tied to a particular machine and do not perform a transformation. Thus, the claims are non-statutory.

Art Unit: 2439

The mere recitation of the machine in the preamble with an absence of a machine in the body of the claim fails to make the claim statutory under 35 USC 101. *Note the Board of Patent Appeals Informative Opinion Ex parte Langemyer et al.*

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 20, 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcey et al(7,305,677) in view of Blackwell et al(2002/0183044).

5. As per claims 1, 22-26, Marcey discloses converting a plurality of programs into corresponding intermediate language programs(see col. 2, lines 33-35), the plurality of programs being written in different programming languages but according to a common language specification(see col. 2, lines 21-25); exposing resources of an operating system of a programming interface layer to the plurality of intermediate language programs(see col. 2, lines 33-44), wherein the program interface layer resides on top of a common language runtime layer that hands calls to the functions of the program interface layer by the plurality of intermediate language programs to the operating system(see col. 2, lines 3-10, 21-45). Marcey discloses that one of the types is related to identifying particular locations (i.e. WS-Routing)(see col. 2, lines 42-45).

Art Unit: 2439

6. Marcey is silent; however, Blackwell discloses functions being organized into groups(i.e. namespaces) according to type the groups including file system, entities a human being can contact[i.e. voicemail/contact data], documents[i.e. fax], multiple kinds of media[i.e. discloses audio and video]; audio media, video media[i.e. video data], image media[i.e. included in video media], e-mail[0005, 0006, 0046-0047].

7. It would have been obvious to one of ordinary skill in the art to include function being organized into groups according to types including file system, entities a human being can contact, documents, multiple kinds of media; audio media, video media, image media, and e-mail of Blackwell, the motivation is that e-mail, fax, voicemail, and paging, etc.. have become popular means for message communication, and the computer operating system typically includes software interfaces which facilitate control of communication hardware in a computer system by application software which utilize these other modes of message communication[0003 of Blackwell].

8. As per claim 2, Marcey discloses a tenth group of types related to moving data between file systems(see col. 2, lines 3-10, 21-45, col. 3, lines 54-61).

9. As per claim 3, Marcey is silent; however, Blackwell discloses on a tenth group of types related to creating and managing rules for generating notifications(i.e. pages) [0046]. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a group of types that includes notifications of Blackwell with Marcey, the motivation is that a shell namespace is referred to the message component, the message management uses namespaces to allow the user to view data such as the page messages (i.e. notifications)[0046 of Blackwell].

10. Same Motivation as claim 3. As per claim 4, Marcey is silent on; however, Blackwell

Art Unit: 2439

discloses a tenth group of types describing types[i.e. shell namespace] defined in all the other groups of types[0046].

11. As per claim 5, Marcey is silent on; however, Blackwell discloses a tenth group of types related to base types that form a foundation to support all the other groups of types[0046].

12. Same motivation as claim 1 above. As per claim 6, Marcey is silent on; however, Blackwell et al. discloses a tenth group of types common to multiple kinds of messages, including the electronic mail messages; and an eleventh group of types specific to facsimile messages[0046].

13. Same motivation as above see claim 1. As per claim 20, Blackwell discloses a tenth group of types related to files stored in a file system[0005-0006, 0046-0047].

14. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marcey et al(7,305,677) in view of Blackwell et al(2002/0183044) and further in view of Takeshi et al.

15. As per claim 7, Marcey and Blackwell do not disclose wherein the groups further include a tenth group of types related to annotations; and an eleventh group of types related to notes. Takeshi discloses wherein the groups further include a tenth group of types related to annotations; and an eleventh group of types related to notes(see pg. 40-41 of Takeshi). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the groups of annotation and notes of Takeshi with Marcey-Blackwell combination, the motivation is that annotations and notes are realized by XML and define structure and semantics of an idea, and annotations and notes also make web pages more efficient (see pgs. 40-41).

Art Unit: 2439

16. Claims 8-19, 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marcey et al(7,305,677) in view of Blackwell et al(2002/0183044) and further in view of Mellmer(6,446,253).

17. As per claim 8, Marcey nor Blackwell disclose a tenth group of types related to installed programs; and an eleventh group of types related to installed games. Mellmer discloses a group of types to installed programs and installed games(see col. 11, lines 60-67). It would have been obvious to one of ordinary skill in the art to include a group of type programs and installed games to allow the user access various games and programs by using the namespace(see col. 11, lines 60-67).

18. As per claim 9, Mellmer discloses a tenth group of types related to actions taken by a user; and an eleventh group of types related to maintaining and accessing help information(see col. 10, lines 23-41, col. 11, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of the invention to include help information and actions take by a user of Mellmer with Marcey-Blackwell combination, because when a user selects context component information is displayed to the user(see col. 10, lines 23-41).

19. As per claim 10, Mellmer discloses a tenth group of types related to a natural language search engine(see col. 7, lines 40-46). It would have been obvious to one of ordinary skill in the art to include a natural language search engine of Mellmer with Marcey-Blackwell combination, to include a way to search namespaces by using a search engine.

20. As per claim 11, Mellmer discloses a tenth group of types related to tasks in a user interface to let a user know what actions the user can perform when navigating the user interface(see col. 9, lines 56-67, col. 10, lines 1-7, 23-27). It would have been obvious to one of

Art Unit: 2439

ordinary skill in the art at the time of the invention to include a user interface of Mellmer with Marcey-Blackwell combination, the motivation is that the user interface component of the program framework may be customized by the user, thus when the user is navigating the context component will display operative contexts available of the user interface(see col. 10, lines 3-6, 22-27).

21. Same Motivation as claim 11 above. As per claim 12, Mellmer discloses a tenth group of types related to user tasks(see col. 9, lines 56-67, col. 10, lines 1-7, 23-27).

22. As per claim 13, Mellmer discloses a tenth group of types related to services that can be accessed(see col. 10, lines 16-23). It would have been obvious to one of ordinary skill in the art at the time of the invention to include services that can be accessed of Mellmer with Marcey-Blackwell combination; the motivation is that the toolbelt component is used to illustrate what services are available to user(see col. 10, lines 16-23 of Mellmer).

23. See claim 1 motivation above. As per claim 14, Blackwell discloses wherein the services can be accessed over a network such as e-mail(0046-0047).

24. See claim 1 motivation above. As per claim 15, Blackwell discloses a tenth group of types related to identifying access rights(0046-0047).

25. As per claim 16, Mellmer discloses a tenth group of types related to calendar types(see col. 10, lines 17-21). It would have been obvious to one of ordinary skill in the art at time of the invention to include a calendar type of Mellmer with Marcey-Blackwell combination, the motivation is that by having a calendar type one can keep track of important dates.

As per claim 17, Mellmer discloses a tenth group of types related to creating and managing event monitoring and resultant actions(see col. 10, lines 46-62). It would have been obvious to one of

Art Unit: 2439

ordinary skill in the art at the time of the invention to include creating and managing events and actions of Mellmer with Marcey-Blackwell combination, the motivation is that alerting one about the state of change of objects can result in sending an alert(see col. 10, lines 46-55 of Mellmer).

26. Same motivation as claim 1 above. As per claim 18, Mellmer discloses a tenth group of types used for interop for each of the first through ninth groups of types(see col. 11, lines 45-50).

27. Same motivation as claim 1 above. As per claim 19, Mellmer discloses an additional group of types for each of the first through ninth groups of bytes, wherein each of the additional groups of types are for interop(see col. 7, lines 55-62).

Response to Amendments

28. A Final office action was mailed on 12/9/09 in which claims 1-53 were rejected. The Applicant filed a request for reconsideration on 1/25/10. Claims 1-13, 15-53 have been amended by the Applicant. Claims 38-41, 50-53 are allowable. In order to further prosecution the Applicant is urged to include the limitations of allowable claims into all independent claims. Applicant's arguments with respect to claims 1-53 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENISE E. JACKSON whose telephone number is (571)272-3791. The examiner can normally be reached on Increased Flex time, but generally in the office M-Fri(8-4:30)..

Art Unit: 2439

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 24, 2010

/J. E. J./

Examiner, Art Unit 2439

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2439